

Emergency Regulations
and
Findings of the Public Employee Retirement Administration Commission
Pursuant to G.L. c. 30A, § 3

The Public Employee Retirement Administration Commission finds that the immediate adoption of regulations to implement the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) which will enable public employees in Massachusetts to take advantage of the expanded tax-deferred roll-over opportunities permitting the purchase of creditable service from assets held in other tax-deferred retirement plans, is necessary for the general welfare of the Commonwealth in order to achieve compliance with the applicable federal regulations at the earliest possible date. The Commission further finds that the immediate adoption of regulations applicable to all of the 106 retirement systems for public employees in the Commonwealth, is necessary for the general welfare of the Commonwealth to ensure consistent and equal treatment of all members of these retirement systems. Therefore, pursuant to the authority contained in G.L. c. 7, § 50 and G.L. c. 32, § 21 and the provisions of G.L. c. 30A, § 3, the Commission hereby adopts as emergency regulations, the following, to become effective as soon as possible subsequent to legislative review as required by G.L. 7, § 50.

840 CMR 15.00

Miscellaneous

15.05 Acceptance of pre-tax rollovers from “Eligible Retirement Plans”

- (1) A Retirement Board may accept any portion of an Eligible Rollover Distribution in payment of all or a portion of a member's purchase of service credit or service buybacks pursuant to G.L. c. 32, §§1 – 28. A Retirement Board may accept an Eligible Rollover Distribution paid directly to the system in a Direct Rollover. Rollovers from other permissible sources will be allowed to the extent permitted by law, subject to any conditions, proofs, or acceptance the Retirement Board deems appropriate.

The following definitions shall apply to this Section:

- (2) An "Eligible Rollover Distribution" is any distribution of all or any portion of the balance to the credit of the member from an Eligible Retirement Plan. An Eligible Rollover Distribution does not include:
 - (a) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the member or the joint

lives (or joint life expectancies) of the member and the member's designated beneficiary, or for a specified period of ten (10) years or more;

- (b) any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code ("Code");
 - (c) any distribution which is made upon hardship of the member; or
 - (d) the portion of any distribution that is not includible in gross income.
- (3) An "Eligible Retirement Plan" is any program defined in Code Sections 401(a)(31) and 402(c)(8)(B), from which the member has a right to an Eligible Rollover Distribution, as follows:
- (a) an individual retirement account under Code Section 408(a);
 - (b) an individual retirement annuity under Code Section 408(b) (other than an endowment contract);
 - (c) a qualified plan under Code Sections 401(a) or 403(a);
 - (d) an eligible deferred compensation plan under Code Section 457(b) which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state; and
 - (e) an annuity contract under Code Section 403(b).
- (4) A "Direct Rollover" is a payment from an Eligible Retirement Plan specified by the member and made directly to the Retirement System.